

Assembly Bill No. 2004

Passed the Assembly August 28, 2014

Chief Clerk of the Assembly

Passed the Senate August 18, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 23357 of, and to add Section 23399.45 to, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2004, Chesbro. Alcoholic beverage sales: beer manufacturers.

(1) Existing law, the Alcoholic Beverage Control Act, authorizes a licensed beer manufacturer, at the licensed premises of production, to sell to consumers for consumption off the premises beer that is produced and bottled by, or produced and packaged for, that manufacturer and, among other things, to sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or contiguous to it, as specified. The act provides that a violation of its provisions is a misdemeanor unless otherwise specified. Existing law provides that moneys collected as fees pursuant to the act are to be deposited in the Alcohol Beverage Control Fund. These moneys are generally allocated to the Department of Alcoholic Beverage Control upon appropriation by the Legislature.

This bill would authorize a beer manufacturer to have upon the premises, as specified, all beers and wines, regardless of source, for sale or service to guests during private events or private functions not open to the general public. The bill would require the beer manufacturer to purchase alcoholic beverages sold at the premises that are not produced and bottled by, or produced and packaged for, the beer manufacturer from a licensed wholesaler, as specified. Because a violation of a provision of a license is a misdemeanor and this bill would increase activities permitted pursuant to the license, subject to specified requirements, this bill would expand the definition of a crime and would impose a state-mandated local program.

(2) Existing law authorizes a licensed winegrower to apply to the Department of Alcoholic Beverage Control for a certified farmers' market sales permit, which allows the licensee, a member of the licensee's family, or an employee of the licensee to sell wine

produced and bottled by the winegrower at certified farmers' market locations, under specified conditions.

This bill would authorize a licensed beer manufacturer to apply to the Department of Alcoholic Beverage Control for a certified farmers' market beer sales permit, which would allow the licensee, a member of the licensee's family who is 21 years of age or older, or an employee of the licensee to sell packaged beer that has been manufactured by the beer manufacturer at certified farmers' market locations, under specified conditions. Among other things, the bill would prohibit a licensee from selling more than 5,000 gallons of beer annually pursuant to all certified farmers' market beer sales permits held by the beer manufacturer and would require the licensee to pay a fee of \$50 for the permit. Because the violation of a provision of a license is punishable as a misdemeanor and the bill would create a new category of license, the bill would expand the definition of a crime, thereby imposing a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 23357 of the Business and Professions Code is amended to read:

23357. (a) A licensed beer manufacturer may, at the licensed premises of production, sell to consumers for consumption off the premises beer that is produced and bottled by, or produced and packaged for, that manufacturer. Licensed beer manufacturers may also exercise any of the following privileges:

(1) Sell that beer to any person holding a license authorizing the sale of beer.

(2) Sell that beer to consumers for consumption on the manufacturer's licensed premises or on premises owned by the manufacturer that are contiguous to the licensed premises and which are operated by and for the manufacturer.

(3) Sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide public eating place on premises owned by the manufacturer which are contiguous to the licensed premises and which are operated by and for the manufacturer.

(b) Notwithstanding any other provision of this division, licensed beer manufacturers and holders of out-of-state beer manufacturer's certificates may be issued and may hold retail package off-sale beer and wine licenses. Alcoholic beverage products sold at or from the off-sale premises that are not produced and bottled by, or produced and packaged for, the beer manufacturer shall be purchased by the beer manufacturer only from a licensed wholesaler.

(c) Notwithstanding any other provision of this division, a licensed beer manufacturer that produces more than 60,000 barrels of beer a year may manufacture cider or perry at the licensed premises of production and may sell cider or perry to any licensee authorized to sell wine. For purposes of this subdivision, "cider" and "perry" have the meanings provided in Section 4.21(e)(5) of Title 27 of the Code of Federal Regulations. This subdivision does not alter or amend the classification of cider or perry as wine for any purpose other than that provided by this section.

(d) A beer manufacturer may also have upon the licensed premises, or on premises owned by the manufacturer that are contiguous to the licensed premises and are operated by and for the manufacturer all beers and wines, regardless of source, for sale or service only to guests during private events or private functions not open to the general public. Alcoholic beverage products sold at the premises that are not produced and bottled by, or produced and packaged for, the beer manufacturer shall be purchased by the beer manufacturer only from a licensed wholesaler. All alcoholic beverages sold or served shall be produced by a licensee authorized to manufacture the product.

SEC. 2. Section 23399.45 is added to the Business and Professions Code, to read:

23399.45. (a) For the purposes of this section:

(1) "Certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code.

(2) “Community event” means an event as defined by Section 113755 of the Health and Safety Code.

(b) A licensed beer manufacturer may apply to the department for a certified farmers’ market beer sales permit. Subject to the requirements of Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code, and to the discretion and managerial control of a certified farmers’ market or community event operator, respectively, a certified farmers’ market beer sales permit shall authorize the licensee, a member of the licensee’s family who is 21 years of age or older, or an employee of the licensee to sell packaged beer that has been manufactured by a beer manufacturer applying for the permit at a certified farmers’ market, including any permitted community event area adjacent to, and operated in conjunction with, a certified farmers’ market, located within the county or an adjacent county of the physical location of the licensed beer manufacturer.

(c) Sales under the certified farmers’ market beer sales permit shall only occur at a certified farmers’ market or within a permitted community event area adjacent to, and operated in conjunction with, the certified farmers’ market that is located within the same county or adjacent county of the location of the licensed beer manufacturer’s manufacturing facility. The permit may be issued for up to 12 months but shall not be valid for more than one day a week at any single specified certified farmers’ market or community event location. A beer manufacturer may hold more than one permit. The department shall notify the city, county, or city and county and the applicable law enforcement agency where the certified farmers’ market or permitted community event is to be held of the issuance of the permit.

(d) The licensed beer manufacturer eligible for the certified farmers’ market beer sales permit shall not sell more than 5,000 gallons of beer annually pursuant to all certified farmers’ market beer sales permits held by any single beer manufacturer. The licensed beer manufacturer shall maintain records of annual beer sales made pursuant to all certified farmers’ market beer sales permits issued.

(e) The fee for any permit issued pursuant to this section shall be fifty dollars (\$50), subject to adjustment pursuant to subdivisions (b) and (c) of Section 23320.

(f) All money collected as fees pursuant to this section shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2014

Governor